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09/774,510	01/31/2001	Ronald A. Smith		4472

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EXAMINER

STERRETT, JONATHAN G

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 11/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/774,510

Applicant(s)

SMITH, RONALD A.

Examiner

Jonathan G. Sterrett

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1-31-01
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Summary***

1. Claims 1-18 are pending in the application.
2. The abstract of the disclosure is objected to because line 1 contains the legal phraseology 'wherein'. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 8-12 and 15-17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 8-12 and 15-17, the use of the word "may" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 8, 10-13, 15, 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Thompson US Patent 6,675,151.

Regarding Claim 1, Thompson discloses:

(a) means for allowing entry by a registry of the search criteria information (column 8 line 31, database records key to substitute worker identification) into a storage area (column 7 line 4, Oracle™ or similar database engine) of said system using personal computer terminals (figure 1 #54, customer computer) which are enabled to access the Internet (figure 1 #26, internet);

(b) means for allowing entry by a user organization of identification information (column 8 line 1-2, organization submits identification information) into said storage area of said system (column 8 line 42, database holds data records) using said personal computer terminals (figure 1 #54, customer computer; column 8 line 20) which are enabled to access the Internet (figure 1 #26, internet);

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(c) means for allowing entry by said user organization of specifics of an order for a assignment (column 11 line 33, organization specifies qualifications and criteria for worker);

(d) means for allowing automatic search (column 11 line 36, system searches for replacements) through said storage areas by said system for possible matches (column 11 line 40, list of preferred replacements) between said order and said stored data referred to by subsection (a);

(e) means for allowing identification and prioritization by said system of matches between said stored data and said order (column 8 line 40-41, list of identified potential replacements prioritized between preferred and backup);

(f) means for allowing automatic notification (column 11 line 42-43, server contacts potential replacements) by said system of matching staffers in priority order on a continuous basis until completed or suspended (column 11 line 65-column 12 line 4, system calls potential replacements until lists are exhausted using multiple prioritized lists)

g) means for allowing access to said order specifics in said system by said staffers using a PIN number (column 11 line 56-57 potential replacement prompted for ID number), which specifics are available by synthetic voice accessed by telecommunications (column 11 line 42-45, system calls potential replacements using interactive voice response technology);

(h) means for allowing a staffer who has been notified by said system to electronically accept said order using said PIN number (column 11 line 59, potential replacement can accept request after entering ID number);

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(i) means for allowing said system to lock out subsequent attempts to accept said order using a PIN number from another staffer (column 9 line 35, PIN number is assigned to users);

(j) means for allowing said system to notify said user-organization of the identity of said accepting staffer by electronic means (column 12 line 11, summary substitute assignment reports; column 12 line 19-20 reports mailed electronically).

(k) means for allowing said system to invoice user-organization on behalf of registry (column 8 line 1-2, organization submits billing information to system; figure 11 #258 billing address; #272 billing contact) for services of staffer accepting the assignment using information from said order, said acceptance and from said storage areas of said system.

Regarding Claim 2, Thompson discloses wherein the system contains means whereby entries are made into said storage area of said system using preprogrammed drop-down lists (column 8 line 44-45, fields completed by using drop-down lists).

Regarding Claim 3, Thompson discloses wherein said system contains means for said entries to be made into said storage area (column 8 line 19-20, applet for recording data resides on client's computer) of said system by data entry from a standard computer keyboard of any brand name (figure 1 #54, personal computer with keyboard).

Regarding Claim 8, Thompson teaches wherein said system contains

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means whereby said staffers may access said order information graphically (column 7 line 37-39, potential replacements can access internet website; figure 2, HTML based web page displays information graphically), using a personal computer of any brand with Internet access capability (figure 1 #24, home-based computer accesses internet).

Regarding Claims 10-12, Thompson teaches wherein said system contains means whereby said staffers may accept assignments using a PIN number (column 11 line 56-57, potential replacement prompted for identification number) by hardwired telecommunications (column 11 line 59, potential replacement presses 2 to accept assignment on telephone), as per Claim 10; by wireless telecommunications (column 11 line 59, potential replacement presses 2 to accept assignment on telephone), as per Claim 11; by E-mail (column 11 line 20-21, designated client personnel receive email notification of absence), as per Claim 12.

Regarding Claim 13, Thompson teaches wherein said system contains means that automatically notifies an ordering organization by E-mail of the identity of an accepting staffer (column 12 line 11 and 20, summary substitute assignment reports mailed electronically).

Regarding Claim 15, Thompson teaches wherein said system contains means whereby invoices created by said system (column 8 line 1-3, system can provide billing) may be printed (figure 1 #52 facsimile prints reports) for physical mailing (figure 4 #134, mailing address).

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Regarding Claim 16, Thompson teaches wherein said system contains means whereby invoices created by said system (column 8 line 1-3, system can provide billing) may be sent to said ordering employer by E-mail (figure 4 #144, client organization email address).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4-7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson US Patent 6,675,151.

Regarding Claims 4-6, Thompson teaches wherein said system contains means whereby said notification (column 7 line 12, notification events) is accomplished by said system by automatically dialing a hard-wire telephone number (column 11 line 41-42, individual informed via telephone) as per Claim 4. Examiner takes official notice that dialing a wireless telephone or pager is equivalent to dialing a hard-wire telephone, since they have the same number of digits to be dialed and can be accessed from the hard-wire telephone system. It would have been obvious to dial a pager number as per Claim 6, or wireless telephone number, as per Claim 5, since pagers and wireless cell phones can be accessed by dialing a number accessible through the hard-wire telephone system.



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Regarding Claim 7, Thompson teaches staffers connecting to the internet (figure 1 #22 potential replacements connect to internet, #26). Thompson teaches automatically notifying staffers by telephone (column 11 line 42-43, system notifies staffers by telephone) Thompson teaches sending automatic reports to the client organization (employer) via email (column 12 line 19-20). Thompson doesn't teach automatically sending an electronic mail message to an E-mail address to notify staffers. It would have been obvious to send an automatic email notification to staffers since they can connect to the internet and since email notification is sent to the client organization (employer).

Regarding Claim 14, Thompson teaches automatic notification of an employer (figure 1 #32, telephony hardware) by digital synthetic voice message (figure 1 #32, outbound voice processing scripts) of the identity of said accepting staffer. Thompson teaches that potential replacements be notified by phone using interactive voice response technology. Thompson teaches that clients (employers) may receive electronic reports of potential replacements who have accepted positions. Thompson lacks notifying hospitals by digital synthetic voice of the identify of accepting replacement workers. It would be obvious to one of ordinary skill in the art at the time of the invention to also provide automatic notification to said organizations by digital synthetic voice of the identity of accepting staffer, because it would simplify the notification process.

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson US Patent 6,675,151 in view of Joao US Patent 6,662,194.

Regarding Claim 17, Thompson does not teach whereby funds may be

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transferred automatically and electronically by the system. Joao teaches whereby funds may be transferred automatically and electronically by the system (column 34 line 40-41, central computer can automatically make electronic payment or transfer). Joao teaches his system reduces cost (column 2 line 6) by automating the initial job recruiting and subsequent activities. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the replacement worker system of Thompson to include making automatic payments, as per Joao, to automate and reduce cost the process of hiring and paying workers.

10. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson US Patent 6,675,151 in view of Esposito US Patent 6,587,838.

Regarding Claim 18, Thompson does not teach where said system contains means whereby any requesting business could transmit its order to several pre-sorted vendors nearly wherein the first said vendor who correctly responds could accept and obtain the order. Esposito teaches where said system contains means whereby any requesting business could transmit its order (column 3 line 37-38, user criteria transmitted to computer; column 3 line 41, one or more vendors notified) to several pre-sorted vendors nearly simultaneously (column 4 line 55, real time notification of vendors) wherein the first said vendor who correctly responds could accept and obtain the order (column 3 line 46, vendor can contact user directly to complete purchase and sale transaction). Esposito teaches that near simultaneous notification of vendors improves the probability of a sale (column 2 line 53-55). It would have been obvious to one of

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ordinary skill in the art to utilize the invention of Thompson to provide near simultaneous order notification to vendors with the motivation of improving the probability of a sale occurring.

11. Note the terms "medical", "shift" and "hospital" are considered non-functional descriptive material and not granted any patentable weight in the claims.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Callen US Patent 6,556,976 discloses a system for connecting customers and vendors through a website.

Shaffer US Patent 6,104,788 discloses a system for enunciating schedule details over the telephone network using synthetic voice

Bentley US Patent 6,529,723 discloses a automated user notification system.

Henderson US Patent 6,327,363 discloses a method and system for automated customer services.

Block US Patent 6,377,938 discloses a real time subscriber billing system and method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is 703-305-0550. The examiner can normally be reached on 8-6.

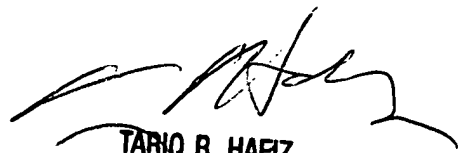
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGS

11-12-04



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